

## **Assembly Bill No. 2139**

### **CHAPTER 568**

An act to amend Sections 442.5 and 442.7 of the Health and Safety Code, relating to terminal illness.

[Approved by Governor September 25, 2014. Filed with  
Secretary of State September 25, 2014.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2139, Eggman. End-of-life care: patient notification.

Under existing law, the State Department of Public Health licenses and regulates health facilities, including hospice facilities, and the provision of hospice services. Existing law establishes the Medical Practice Act, which provides for the regulation and licensure of physicians and surgeons by the Medical Board of California.

When a health care provider, as defined, makes a diagnosis that a patient has a terminal illness, existing law requires the health care provider to provide the patient, upon the patient's request, with comprehensive information and counseling regarding legal end-of-life options, as specified, and provide for the referral or transfer of a patient, as provided, if the patient's health care provider does not wish to comply with the patient's request for information on end-of-life options.

This bill would apply these provisions to another person authorized to make health care decisions, as defined, for a patient with a terminal illness diagnosis. The bill would additionally require the health care provider to notify, except as specified, the patient or, when applicable, the other person authorized to make health care decisions, when the health care provider makes a diagnosis that a patient has a terminal illness, of the patient's and the other authorized person's right to comprehensive information and counseling regarding legal end-of-life care options.

*The people of the State of California do enact as follows:*

**SECTION 1.** Section 442.5 of the Health and Safety Code is amended to read:

442.5. (a) When a health care provider makes a diagnosis that a patient has a terminal illness, the health care provider shall do both of the following:

(1) Notify the patient of his or her right, or when applicable, the right of another person authorized to make health care decisions for the patient, to comprehensive information and counseling regarding legal end-of-life options. This notification may be provided at the time of diagnosis or at a

subsequent visit in which the provider discusses treatment options with the patient or the other authorized person.

(2) Upon the request of the patient or another person authorized to make health care decisions for the patient, provide the patient or other authorized person with comprehensive information and counseling regarding legal end-of-life care options pursuant to this section. When a terminally ill patient is in a health facility, as defined in Section 1250, the health care provider, or medical director of the health facility if the patient's health care provider is not available, may refer the patient or other authorized person to a hospice provider or private or public agencies and community-based organizations that specialize in end-of-life care case management and consultation to receive comprehensive information and counseling regarding legal end-of-life care options.

(b) If a patient or another person authorized to make health care decisions for the patient, requests information and counseling pursuant to paragraph (2) of subdivision (a), the comprehensive information shall include, but not be limited to, the following:

(1) Hospice care at home or in a health care setting.

(2) A prognosis with and without the continuation of disease-targeted treatment.

(3) The patient's right to refusal of or withdrawal from life-sustaining treatment.

(4) The patient's right to continue to pursue disease-targeted treatment, with or without concurrent palliative care.

(5) The patient's right to comprehensive pain and symptom management at the end of life, including, but not limited to, adequate pain medication, treatment of nausea, palliative chemotherapy, relief of shortness of breath and fatigue, and other clinical treatments useful when a patient is actively dying.

(6) The patient's right to give individual health care instruction pursuant to Section 4670 of the Probate Code, which provides the means by which a patient may provide written health care instruction, such as an advance health care directive, and the patient's right to appoint a legally recognized health care decisionmaker.

(c) The information described in subdivision (b) may, but is not required to, be in writing. Health care providers may utilize information from organizations specializing in end-of-life care that provide information on factsheets and Internet Web sites to convey the information described in subdivision (b).

(d) Counseling may include, but is not limited to, discussions about the outcomes for the patient and his or her family, based on the interest of the patient. Information and counseling, as described in subdivision (b), may occur over a series of meetings with the health care provider or others who may be providing the information and counseling based on the patient's needs.

(e) The information and counseling sessions may include a discussion of treatment options in a culturally sensitive manner that the patient and his

or her family, or, when applicable, another person authorized to make health care decisions for the patient, can easily understand. If the patient or other authorized person requests information on the costs of treatment options, including the availability of insurance and eligibility of the patient for coverage, the patient or other authorized person shall be referred to the appropriate entity for that information.

(f) The notification made pursuant to paragraph (1) of subdivision (a) shall not be required if the patient or other person authorized to make health care decisions, as defined in Section 4617 of the Probate Code, for the patient has already received the notification.

(g) For purposes of this section, “health care decisions” has the meaning set forth in Section 4617 of the Probate Code.

(h) This section shall not be construed to interfere with the clinical judgment of a health care provider in recommending the course of treatment.

SEC. 2. Section 442.7 of the Health and Safety Code is amended to read:

442.7. If a health care provider does not wish to comply with his or her patient’s request or, when applicable, the request of another person authorized to make health care decisions, as defined in Section 4617 of the Probate Code, for the patient for information on end-of-life options, the health care provider shall do both of the following:

(a) Refer or transfer a patient to another health care provider that shall provide the requested information.

(b) Provide the patient or other person authorized to make health care decisions for the patient with information on procedures to transfer to another health care provider that shall provide the requested information.